

To: Tina Laidlaw/MO/R8/USEPA/US@EPA[]
From: "Suplee, Mike"
Sent: Wed 6/27/2012 3:47:23 PM
Subject: RE: Number 3
msuplee@mt.gov
<mailto:Laidlaw.Tina@epamail.epa.gov>
[image001.gif](#)

Hi Tina;

Like a lot of these things, there are elements that could occur as early as the START box or could occur later. You are correct in that if a stream provided sufficient dilution from the get-go, Permitting will figure that out and they won't need a variance. The situation in #3 is different. There, it is assumed that the stream could not initially provide enough dilution, circa 2016, so the permittee went on a general variance. Then, some years later, when the general variance became more strict, it was found during permit renewal that enough upstream nonpoint (or point) source cleanup had occurred that adequate dilution was now available, so they can get off the variance merry-go-round and just meet the standards.

Does that make sense?

Mike

From: Tina Laidlaw [<mailto:Laidlaw.Tina@epamail.epa.gov>]
Sent: Wednesday, June 27, 2012 9:34 AM
To: Suplee, Mike
Subject: RE: ??

Mike,

Mike,

Yesterday, I reviewed the latest flow chart with some folks from HQs. One thing folks found confusing was #3 (US assimilative capacity)... as a means for not needing to meet the general variance limit. Our/ my understanding is that technically that example should fall into #1 in the START box since that facility would be meeting standards. Our suggestion was to remove #3 because it's the same as #1 in the start box.

Is there something we're missing?

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"Suplee, Mike" ---06/26/2012 03:29:12 PM---Hi Tina; The rule addresses a hypothetical situation the municipalities have often raised. It would

From: "Suplee, Mike" <msuplee@mt.gov>
To: Tina Laidlaw/MO/R8/USEPA/US@EPA
Date: 06/26/2012 03:29 PM
Subject: RE: ??

Hi Tina;

The rule addresses a hypothetical situation the municipalities have often raised. It would be a case where the background nutrient condition of the stream is so overwhelmingly influenced by nonpoint source, and the facility is small enough, that a move to the next treatment level would do no real good. Not sure if there is an example of this out there but there might be.

"Material" progress was used on purpose. It is a fact that if somebody upgrades a WWTP there will always be SOME movement (even if its small) towards the standards in the river (the mixing equations can't be denied...). So without the word 'material', there would be no circumstance in which the cited rule could ever apply. "Material" is legalize and suggests actual, physical, demonstrably meaningful—more than just 5 zeros to the right of the decimal point.

Note that the sentence is 'this' OR 'that' AND 'this'. So applicants have to hit two conditions no matter which of the two paths they choose.

Hope this helps,

Mike

From: Tina Laidlaw [mailto:Laidlaw.Tina@epamail.epa.gov]
Sent: Tuesday, June 26, 2012 1:58 PM
To: Suplee, Mike
Subject: ??

can you explain why the draft rules read "would not result in material progress". That seems really odd to me. guessing we'll have comments. wondering about the rationale for that wording... ?

(6) A permittee who has already received a general variance is not required to further treat the facility's discharge to an updated (lower) general variance concentration adopted by the department if it can be demonstrated that achieving the lower concentration would not result in net environmental improvement, or would not result in material progress towards attaining the base numeric nutrient standard, and would cause more environmental harm than remaining at the previous general variance concentration. The demonstration must be consistent with

guidelines developed by the department and the nutrient work group.

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